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16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 SAN FRANCISCO DIVISION

19 NETWORK PROTECTION SCIENCES,
20 LLC

21 No. 3:12-CV-01106-WHA

22 Plaintiff,
23 vs.
24 FORTINET, INC.
25 Defendants.

**26 DECLARATION OF JILL F.
27 KOPEIKIN IN SUPPORT OF
28 NETWORK PROTECTION
SCIENCES, LLC'S TRIAL BRIEF**

Judge: Honorable William H. Alsup
Pretrial Conf. Date: September 24, 2013
Time: 8:00 a.m.
Trial Date: September 30, 2013
Time: 7:30 a.m.

1 I, JILL F. KOPEIKIN, hereby declare as follows:

2 1. I am an attorney at law duly licensed to practice before this Court and am a
3 partner with the law firm of GCA Law Partners LLP, counsel of record for Plaintiff
4 Network Protection Sciences, LLC (“NPS”). I submit this Declaration in Support of
5 Network Protection Science LLC’s Trial Brief.

6 2. I have personal knowledge of the facts stated herein and if sworn as a witness
7 could and would competently testify thereto.

8 3. Paragraph supporting: NPS subpoenaed a number of Fortinet customers,
9 most with document-only subpoenas. None moved for a protective order, and NPS did not
10 bring motions to compel against a single one.

11 4. Paragraph supporting: After some effort, NPS was finally able to reach a
12 responsible representative of Infogressive, Chief Executive Officer and co-founder, Justin
13 Kalhoff. During a telephone call placed by NPS’s counsel on June 4, 2013, at 4:43 Pacific,
14 Mr. Kalhoff said that Infogressive was being represented by Fortinet’s counsel in responding
15 to the NPS subpoena.

16 5. Attached hereto as Exhibit 1 (subject to Administrative Motion) is a true
17 and correct copy of an invoice of Patent Calls to Greg Cuke of NPS, dated June 16, 2010,
18 NPS0065156.

19 6. Attached hereto as Exhibit 2 is a true and correct copy of the Fortinet’s
20 Initial Disclosures, served June 29, 2012.

21 7. Attached hereto as Exhibit 3 is a true and correct copy of the Fortinet’s
22 Second Supplemental Initial Disclosures that Fortinet’s counsel, Andrew Holmes, served
23 on NPS on April 30, 2013.

24 8. Attached hereto as Exhibit 4 (subject to Administrative Motion) is a true
25 and correct copy of selection portions of Expert Report of William R. Cheswick, dated July
26 3, 2013: 4(a): Exhibit 15(d); 4(b): Exhibit 15(b); 4(c): ¶¶ 248, 251-252, 273-274, 276, 312,
27 and 317.

1 9. Attached hereto as Exhibit 5 is a true and correct copy of a Janus Firewall
2 presentation, no publication date provided, FORT_NPS 058723-34.

3 10. Attached hereto as Exhibit 6 is a true and correct copy of Fortinet's
4 Invalidity Contentions, served August 31, 2012.

5 11. Attached hereto as Exhibit 7 is a true and correct copy of Fortinet's First
6 Supplemental Initial Disclosures, served January 23, 2013.

7 12. Attached hereto as Exhibit 8 (subject to Administrative Motion) is a true
8 and correct copy of the Transcript of deposition testimony of David Pensak, dated June 20,
9 2013.

10 13. Attached hereto as Exhibit 9 (subject to Administrative Motion) is a true
11 and correct copy of the Transcript of deposition testimony of Phil Trubey, dated June 13,
12 2013.

13 14. Attached hereto as Exhibit 10 (subject to Administrative Motion) is a true
14 and correct copy of Fortinet's Counsel's Engagement letter to Phil Trubey, dated June 5,
15 2013, FORT-NPS 192378.

16 15. Attached hereto as Exhibit 11 is a true and correct copy of a Subpoena from
17 NPS to Secured Retail Networks.

18 16. Attached hereto as Exhibit 12 is a true and correct copy of an email from
19 Vincent McGahey, Counsel of NPS, to Fortinet's Counsel, dated May 28, 2013.

20 17. Attached hereto as Exhibit 13 is a true and correct copy of an email from
21 Jay Neukom, Counsel of Fortinet, to NPS's Counsel, dated July 12, 2013.

22 18. Attached hereto as Exhibit 14 is a true and correct copy of NPS's Notice of
23 Intent to Serve, and Subpoena to Infogressive, dated May 15, 2013.

24 19. Attached hereto as Exhibit 15 is a true and correct copy of Proof of Service
25 of NPS's Subpoena to Infogressive, dated May 16, 2013.

26 20. Attached hereto as Exhibit 16 is a true and correct copy of an email chain
27 between NPS's counsel and Fortinet's counsel dated June 20, 2013, June 19, 2013, June
28 18, 2013, June 17, 2013, June 13, 2013, June 10, 2013, and June 5, 2013.

1 21. Attached hereto as Exhibit 17 is a true and correct copy of an email chain
2 between NPS's counsel and Justin Kalloff of Infogressive, dated June 19, 2013.

3 22. Attached hereto as Exhibit 18 is a true and correct copy of an email chain
4 between David Binney and NPS's counsel, dated June 25, 2013, and June 14, 2013.

5 23. Attached hereto as Exhibit 19 is a true and correct copy of Fortinet's Initial
6 Disclosures, served April 11, 2011.

7 24. Attached hereto as Exhibit 20 (subject to Administrative Motion) is a true
8 and correct copy of the Transcript of the deposition testimony of Todd Nelson, taken on
9 June 26, 2013.

10 25. Attached hereto as Exhibit 21 is a true and correct copy of Fortinet's
11 Amended and Supplemental Response to Interrogatory 1, March, 4 2013.

12 26. Attached hereto as Exhibit 23 is a true and correct copy of Eastern District
13 of Texas Local Patent Rules, current as of March 18, 2013.

14 27. Attached hereto as Exhibit 24 is a true and correct copy of NPS's Disclosure
15 of Asserted Claims and Preliminary Infringement Contentions, served April 11, 2011.

16 28. Attached hereto as Exhibit 25 is a true and correct copy of a Letter from
17 NPS's Counsel to Fortinet's Counsel regarding electronic discovery, dated March 15,
18 2011.

19 29. Attached hereto as Exhibit 26 is a true and correct copy of an email from
20 Michael Cukor, Counsel to NPS, to Fortinet's Counsel regarding e-discovery, dated May 6,
21 2011.

22 30. Attached hereto as Exhibit 27 is a true and correct copy of an email from
23 Michael Cukor, Counsel to NPS, to Fortinet's Counsel regarding e-discovery, dated June
24 30, 2011.

25 31. Attached hereto as Exhibit 28 is a true and correct copy of the Patent
26 assignment abstract for the '601 patent from <http://assignments.uspto.gov>.

27 32. Attached hereto as Exhibit 29 is a true and correct copy of NPS's Initial
28 Disclosures, dated June 29, 2012.

1 33. Attached hereto as Exhibit 30 is an email from Vincent McGeary, Counsel
2 to NPS, to Fortinet's Counsel regarding witnesses, dated May 24 2013.

3 34. Attached hereto as Exhibit 31 is a true and correct copy of an email from
4 NPS Counsel to Fortinet's Counsel regarding Gregory Cuke, dated May 30, 2013.

5 35. Attached hereto as Exhibit 32 is a true and correct copy of a Declaration of
6 John M. Neukom, Exh. M, Case5:13-cv-02496-EJD, ECF No. 17-1, Filed 10/25/12
7 (District of Delaware).

8 36. Attached hereto as Exhibit 33 (subject to Administrative Motion) is a true
9 and correct copy of the Transcript of deposition testimony Gregory Cuke, dated June 7,
10 2013.

11 37. Attached hereto as Exhibit 34 (subject to Administrative Motion) is a true
12 and correct copy of the Transcript of deposition testimony of Rakesh Ramde, dated June
13 11, 2013.

14 38. Attached hereto as Exhibit 35 is a true and correct copy of an email from
15 John M. Neukom, Counsel of Fortinet, to Vincent McGeary, Counsel of NPS, dated May
16 28, 2013.

17 39. Attached hereto as Exhibit 36 (subject to Administrative Motion) is a true
18 and correct copy of the Transcript of deposition testimony Christian Hicks, dated August 5,
19 2013.

21 I declare under penalty of perjury under the laws of the United States of America
22 that the foregoing is true and correct, and that this declaration was executed in Mountain
23 View, California on September 17, 2013.

/s/ Jill F. Kopeikin
Jill F. Kopeikin